

## **REMARKS**

In the above referenced Final Office Action the Examiner rejected Claims 1-2, 4, 9-11, 14, 16, and 27 under 35 U.S.C. 102(b) as being anticipated by Younick.

In support of this rejection the Examiner stated, "Younick shows an apparatus for applying upward pressure to an object. The apparatus includes a first means 6, an elongated rod 1, a second means 4, and a third means 7. The third means 7 'engages the support 3' (Younick, column 2, line 13). This is construed by the examiner as engaging the support 3 always even during a prying operation. Clearly, the tool operates by third means 7 supporting and pivoting said apparatus. Even if the third means 7 supported and pivoted the apparatus for a small infinitesimal time it would read on the claim language. Since the third means 7 'engages the support 3' it must necessarily be on an underside of the second means. The bottom of third means 7 is at least coplanar with the underside of the second means 4 which is interpreted as being 'on the underside of the second means 4' since this is a broadly written phrase subject to various interpretations. Since the Younick device is a 'wrecking bar', the examiner takes Official Notice that wrecking bars are commonly made from steel and that steel would have the strength characteristics recited in the claims.

Independent claim 1 has been amended to now specifically recite in subparagraph (d), "a substantially stationary third means engageable substantially adjacent an outer upper surface thereof with and disposed closely adjacent an outer lower surface and at an intersection of said second end of said elongated rod member and said first end of said second means, ~~said substantially stationary third means being positioned for supporting and pivoting said apparatus.~~"

Applicant respectfully submits that this limitation is neither taught or suggested in the cited reference which therefore renders Claim 1 patentable. Claim 2 has been cancelled. Additionally, because Claims 4, 9-11, 14 and 16 add further limitations to amended Claim 1 it is submitted that they are also patentable for the reason Claim 1 is patentable.

Applicant specifically notes the Examiner's absence of remarks directed to independent Claim 27.

Accordingly, the Examiner is respectfully requested to withdraw his rejection of Claims 1, 4, 9-11, 14, 16, and 27 under 35 U.S.C. 102(b) as being anticipated by Younick.

Next, the Examiner rejected Claims 3, 5, 12, and 15 under 35 U.S.C. 103(a) as being unpatentable over Younick in view of Morgen and Christensen et al. As support for this rejection, the Examiner stated, "Morgen teaches that various object and user hand engaging portions of the lifting lever may include

grips or caps to cover the extremities of these engaging portions. To provide grips or caps on any of the engaging portions of Younick would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Morgen.

Christensen et al teaches that the object engaging portions of a lever may be made from rubber or plastics. The examiner takes Official Notice that a common plastic is polyethylene. To make any engaging portion in Younick from polyethylene would have been obvious at the time of the invention in view of the teachings of Christensen et al."

As discussed above applicant believes Independent Claim 1 is now in condition for allowance and since these claims add further limitations to such claim they are likewise believed allowable. Accordingly, the Examiner is respectfully requested to withdraw his rejection of claims 3, 5, 12, and 15 under 35 U.S.C. 103(a) as being unpatentable over Younick in view of Morgen and Christensen et al.

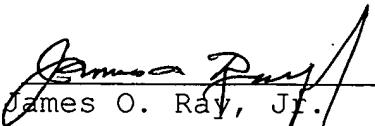
The Examiner should now be able to find in the claims a recitation that the third means is disposed below the bar and not coplanar with the underside of the second means.

In the event the Examiner has further difficulties with the allowance of the application, he is invited to contact the undersigned attorney by telephone at (412) 380-0725 to resolve

any remaining questions or issues by interview and/or by Examiner's amendment as to any matter that will expedite the completion of the prosecution of the application.

Respectfully submitted,

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